

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JADRANKA SAMONA,

Plaintiff,

Case No. 15-CV-11713

vs.

HON. MARK A. GOLDSMITH

ACTING COMMISSIONER
CAROLYN W. COLVIN,

Defendant.

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ORDER

**(1) ACCEPTING THE RECOMMENDATION CONTAINED IN THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION DATED JUNE 24, 2016,
(2) GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (Dkt. 20),
(3) DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (Dkt. 22),
(4) REVERSING THE DECISION OF THE COMMISSIONER and (5) REMANDING TO
COMMISSIONER**

This matter is presently before the Court on the Report and Recommendation (R&R) of Magistrate Judge Anthony P. Patti, issued on June 24, 2016. In the R&R, the Magistrate Judge recommends that Plaintiff's motion for summary judgment be granted, Defendant's motion for summary judgment be denied, and the case remanded to the Commissioner for further consideration.

The parties have not filed objections to the R&R, and the time to do so has expired. See Fed. R. Civ. P. 72(b)(2). The failure to file a timely objection to an R&R constitutes a waiver of the right to further judicial review. See Thomas v. Arn, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings."); Smith v. Detroit Fed'n of Teachers, 829 F.2d 1370, 1373-1374 (6th Cir. 1987)

(failure to file objection to R&R “waived subsequent review of the matter”); Cephas v. Nash, 328 F.3d 98, 108 (2d Cir. 2003) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.”); Lardie v. Birkett, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (“As to the parts of the report and recommendation to which no party has objected, the Court need not conduct a review by any standard.”). However, there is some authority that a district court is required to review the R&R for clear error. See Fed. R. Civ. P. 72 Advisory Committee Note Subdivision (b) (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”). Therefore, the Court has reviewed the R&R for clear error. On the face of the record, the Court finds no clear error and accepts the recommendation.

Accordingly, Plaintiff’s motion (Dkt. 20) is granted, Defendant’s motion (Dkt. 22) is denied. The Commissioner’s decision is reversed and the case is remanded to the Administrative Law Judge under Sentence Four of 42 U.S.C. § 405(g) for further consideration consistent with the Magistrate Judge’s R&R.

SO ORDERED.

Dated: July 20, 2016
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on July 20, 2016.

s/Karri Sandusky
Case Manager